

Readopt with amendment Ins 3300, effective 9-1-02 (Document #7658), to read as follows:

## CHAPTER Ins 3300 INSURANCE SCORES

Statutory Authority: RSA 400-A:15; **[RSA 412:14-a; RSA 414:3 IX;] RSA 412:15 III; RSA 412:43 I;** RSA 417:4 VIII. (g)

### PART Ins 3301 USE OF INSURANCE SCORES

Ins 3301.01 Purpose. The purpose of this chapter is to specify the conditions that are required to be met before insurers can use insurance scores for underwriting or rating for private passenger automobile and homeowners insurance.

Ins 3301.02 Scope.

(a) This chapter shall apply to private passenger automobile and homeowners insurance. For the purposes of this chapter homeowners insurance shall include dwelling insurance for owner occupied one to 4 family buildings.

(b) This chapter shall apply to each property and casualty insurer that uses an insurance score for:

- (1) Underwriting purposes, including declinations; or
- (2) Rating purposes.

Ins 3301.03 Definitions.

(a) "Adverse action" means a denial or cancellation of, an increase in any charge for, or a reduction of or other adverse or unfavorable change in the terms of coverage or amount of any private passenger automobile or homeowners insurance.

(b) "Affiliated insurer" means an insurer that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another insurer.

(c) "Consumer" means an individual.

(d) "Consumer reporting agency" means any person which, for monetary fees, dues or on a cooperative non-profit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information for the purpose of furnishing credit histories to third parties.

(e) "Control" means the direct or indirect possession of the power to direct, or cause the direction of, the management and business policies of an insurer, regardless of whether the power is exercised by:

- (1) Ownership of voting securities or of securities convertible into voting securities;
- (2) Contract, other than a commercial contract for goods or non-management services; or

(3) Any other means.

(f) "Credit report" **or "consumer report"** means any communication of any information by a consumer reporting agency that:

(1) Bears on a consumer's creditworthiness, credit standing, or credit capacity; and

(2) Is used or collected or expected to be used or collected as a factor in establishing the consumer's eligibility or rating for private passenger automobile or homeowners insurance.

(g) "Insurance score" means a score that is derived by utilizing data from an individual's credit report in an algorithm, computer program, model, or other process that reduces the data to a numeric or alphabetical, or similar rating.

(h) "Producer" means a person or business entity licensed under RSA 402-J.

(i) "Rating" means the establishment of base rates, classification factors, modifications to rates or factors, or tier placement.

(j) "Tier" means a category within a single insurer or group of insurers into which insureds with similar risk characteristics are placed for purposes of determining a premium or rate.

#### PART Ins 3302 STANDARDS

##### Ins 3302.01 Written standards.

(a) If an insurance score is used for the underwriting or rating of private passenger automobile or homeowners insurance, an insurer shall:

(1) Establish written standards for determining when to obtain an insurance score which prohibits obtaining an insurance score based in whole or in part on:

- a. Race;
- b. Color;
- c. Creed;
- d. Sex;
- e. Religion;
- f. National origin;
- g. Place of residency;
- h. Blindness; or

i. Any other physical handicap or disability.

(b) The written standards shall prohibit the obtaining of an insurance score for any arbitrary, capricious, or unfairly discriminatory reason.

(c) The written standards shall require that the decision to obtain an insurance score be reasonably related to the insurer's business.

#### PART Ins 3303 NOTICE TO INSURED

##### Ins 3303.01 Notice requirements.

(a) Each consumer who makes an original application for private passenger automobile or homeowners insurance shall be provided with a notice by the insurer or its producer that the consumer's insurance score is used for the underwriting or rating of such insurance, if the insurer uses an insurance score for those purposes.

(b) If the insurer uses an insurance score upon renewal of any private passenger automobile or homeowners insurance policy, for underwriting or rating purposes, the insured shall be provided notice of such fact by the insurer or its producer.

(c) The notice shall be given by the same method as the application is submitted or the renewal offer is communicated.

#### PART Ins 3304 FILING OF UNDERWRITING MODELS

##### Ins 3304.01 Underwriting filing required.

(a) If an insurer uses insurance scores to underwrite new or renewal private passenger motor vehicle or homeowners insurance business, its underwriting models shall be filed with the department for approval.

(b) The filing shall include:

(1) The characteristics or factors of insurance scores used in the underwriting process; and

(2) The underwriting guidelines specifically related to the use of insurance scores by the insurer.

#### PART Ins 3305 RATE FILINGS

##### Ins 3305.01 Rates filing required.

(a) If an insurer uses an insurance score in rating new or renewal private passenger automobile or homeowners insurance business, its rates shall be filed with the department for approval.

(b) The filing shall include:

(1) The insurance score criteria or factors associated with the rating factor; and

(2) The rating factor.

PART Ins 3306 USE OF INSURANCE SCORES IN UNDERWRITING

Ins 3306.01 Underwriting use of scores.

(a) If an insurer uses insurance scores for the purpose of underwriting private passenger automobile or homeowners insurance, the insurance score shall be established and used in a manner that:

(1) Is not contrary to the provisions of RSA 417-A and RSA 417-B;

(2) Is not based wholly or partly on:

- a. Race;
- b. Color;
- c. Creed;
- d. Sex;
- e. Religion;
- f. National origin;
- g. Place of residency;
- h. Blindness; or
- i. Any other physical handicap or disability.

(3) Is not arbitrary, capricious or unfairly discriminatory;

(4) Is reasonably related to the insurer's business of insurance; and

(5) Other wise complies with this chapter and RSA 412 [, **RSA 414**] and RSA 417.

PART Ins 3307 USE OF INSURANCE SCORES IN RATEMAKING

Ins 3307.01 Ratemaking insurance score use standards.

(a) If an insurer uses an insurance score in rating private passenger automobile or homeowners insurance, use of insurance scores shall be established and used in a manner that:

(1) Does not result in rates that are excessive, inadequate, or unfairly discriminatory; **[and]**

**(2) Does not further use credit as a rate characteristic within a tier or affiliate to which a risk is assigned, if the credit scoring system**

**already places a risk within a rating tier or with an affiliated insurer and such assignment results in a rate differential; and**

**[(2)] (3)** Otherwise complies with this rule and **RSA 412:15 III** **[RSA 412:14-a; RSA 414:3 IX]** and RSA 417:4 VIII (g).

(b) If an insurer uses an insurance score in rating private passenger automobile or homeowners insurance that insurer shall **[use the insurance score] update the insurance score, with current credit information,** at least on each third annual consecutive policy issued to an insured.

#### PART Ins 3308 ADVERSE ACTION

##### Ins 3308.01 Adverse action.

(a) If the insurer takes any adverse action with respect to any consumer that is based in whole or in part on an insurance score, the insurer shall:

(1) Provide oral, written or electronic notice of the adverse action to the consumer;

(2) Provide the name, address and telephone number of the consumer reporting agency, including a toll-free number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis, that furnished the report to the insurer;

(3) Provide a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken;

(4) Provide to the consumer an oral, written or electronic notice of the consumer's rights to obtain a free copy of credit history from the consumer reporting agency or to file a dispute with the consumer reporting agency over the accuracy or completeness of any information in a credit history furnished by the agency.

(b) An insurer which takes any adverse action with respect to any consumer that is based in whole or in part on an insurance score, shall in addition to the requirements of (a) above, provide the 2 primary reasons the consumer was assigned the insurance score, if requested in writing to do so by the insured.

#### PART Ins 3309 ADDITIONAL CONSUMER PROTECTIONS

##### Ins 3309.01 Review of Action.

(a) If an insured believes that any adverse action taken by an insurer violates this chapter or the provisions of RSA 417:4 VIII (g); RSA 417-A or RSA 417-B, the insured may request in writing, within 10 days of receipt of the insurer's or producer's notice, that the commissioner review the action of the insurer.

(b) If an insurer shall receive confirmation of an inaccuracy in a credit history, it shall re-rate the applicable private passenger automobile or homeowners insurance policy effective retroactive to the effective date.

#### PART Ins 3310 REVIEW OF INSURANCE SCORING MODEL

##### Ins 3310.01 Submission of basis for insurance score.

(a) An insurer or any other party shall submit to the commissioner an insurance scoring model intended to be relied upon in an underwriting model or rate filing. Such submission shall be made separately from the filing of underwriting or rating criteria. Such submission shall include: **[statistical validation supporting the use of insurance scores in the rating process.]**

**(1) The factors or characteristics obtained from a credit report or consumer report that are utilized in determining a credit score;**

**(2) The algorithm, computer program, model or other process used in determining a credit score;**

**(3) The underlying support, including statistical validation, for the development of the algorithm, computer program, model or other process that is used in determining a credit score;**

**(4) If a third party vendor has developed the scoring model utilized by the insurer, identify the vendor, the model name and the date the scoring model was found to be acceptable by the Commissioner;**

**(5) A full description of how the company intends to use the scoring model or credit information; include underwriting rules and/or rating rules which directly or indirectly are dependent on credit information or scoring model outputs;**

**(6) An explanation of how score ranges are established by the insurer to differentiate risks among tiers, programs or companies;**

**(7) The loss experience of the insurer in support of the score ranges used to differentiate risks among tiers, programs or companies, including:**

**a. Identification of the type of loss data relied upon;**

**b. All adjustments made to the collected data;**

**c. Results of sensitivity testing performed by the insurer including identification of any reversals that the model produces and a discussion of their significance;**

**d. Existing rules or rating factors replaced or altered due to the use of a credit scoring model and a discussion as to why the credit scoring model is the appropriate means by which to differentiate risks;**

**e. A summary of the impact to policyholders because of the introduction or continued use of a credit scoring model.**

(b) Such insurance scoring model shall not be:

(1) Contrary to any provision of RSA 417-A or RSA 417-B;

(2) Based wholly or partly on:

a. Race;

b. Color;

c. Creed;

d. Sex;

e. Religion;

f. National origin;

g. Place of residency;

h. Blindness; or

i. Any other physical handicap or disability of an applicant or insured.

(3) Arbitrary, capricious or unfairly discriminatory; or

(4) In violation of this chapter or RSA 417:4 VIII (g).

(c) No insurer shall use an insurance scoring model in connection with underwriting or rating prior to acceptance of such insurance scoring model by the commissioner.

Ins 3310.02 Confidentiality of submission. Information submitted to the commissioner pursuant to this section shall be considered confidential and commercial information under RSA 91-A:5, and shall be treated as confidential by the commissioner pursuant to RSA 400-A:25.

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